

12 January 1954

Personal and Confidential

MEMORANDUM FOR: The Secretary of State

25X1 Attached is Herb's letter with respect to the hearing in the [] case with out "suspension." I do not know whether these facts fit your case. I believe Herb's letter gives sufficient of the background facts, but I will send you my letter to him if you desire.

I am anxious this should not be used in a way which would be likely to disturb the conclusion of the [] case which is now in its last few weeks.

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A. W. D.

Encl.

AWD:at

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25X1 DOCUMENT NO. 14
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AUTH: HR 70-2
DATE: _____ REVIEWER []

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OGC Has Reviewed

ER-4-6774

OCT 12 1953

The Honorable
The Attorney General
Department of Justice
Washington 25, D. C.

Dear Mr. Attorney General:

A question has arisen in connection with the administration of the Agency's employee security program on which I would appreciate your opinion.

I have issued regulations establishing security hearing standards and procedures for the Central Intelligence Agency. These regulations are based on authorities in the Act of August 26, 1950.

and are designed to carry out the security program of the President as set forth in Executive Order 10450. The Regulation provides, in accordance with the President's program, for appointment by me of Security Hearing Boards from the Roster maintained by the Civil Service Commission, except in cases where special security considerations of this Agency prevent an outside hearing. Such cases are processed internally under other regulations established by me.

The question presented is whether a case may be referred to a Board chosen from the Roster for hearing and recommendations to me without first suspending the employee concerned. I have in mind several cases, but one in particular where the employee concerned has been on duty for some period of time after a full-field investigation, complete review by our Security Office, and security approval in accordance with our regulations which apply to all employees of the Agency. No additional information other than that considered by us at the time of his original clearance has been received, but allegations have been made about the individual which make it imperative that his case have the most complete and impartial review that can be obtained

under the President's program. It would appear completely inconsistent for me to suspend the employee under these circumstances, and I have carefully reviewed the case and have determined that suspension is not necessary or desirable in the interests of national security. I am not only willing to have all the information reviewed by outside, impartial persons of proper qualifications, but believe it essential under the circumstances to have such a review and re-evaluation.

The Act of August 26, 1950, gives the head of the agency absolute right to suspend or not in any case to be reviewed under that Act, but it then proceeds to set certain requirements for notice and hearings if suspension is directed. I believe this is a necessary and proper protection for a suspended employee and that the statute was so worded to require this protection, but it appears to me that the spirit of Executive Order 10450 implies that the protection should run also to the Agency so that the head thereof can obtain the objective advice of an impartial board. I find nothing in the Act of August 26, 1950, or the Executive Order which forbids reference to a board under these circumstances, and it appears to me to be a highly proper and, in some instances, necessary procedure. This, in fact, seems to be the purport of Section 5 of the Executive Order, which provides that following receipt of derogatory information and prior to suspension under authority granted in paragraph 6 of the Order, the head of each agency "... shall review, or cause to be reviewed, ... the case of such ... employee." (Emphasis added)

OGC

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Based on the foregoing, I feel it is quite proper to appoint a Board from the Civil Service Roster to consider the case of an employee who has not been suspended.

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I could equally well meet the requirement for impartiality of review by choosing boards from qualified people outside of the Government to review and recommend as might be appropriate, but where the procedures under the Executive Order are consistent with our security and other requirements, I wish, of course, to have recourse to them.

FOIAB5
OGC



but
when there is a determination that employees should be suspended our regulations provide for a statement of charges and board review. Consequently, I feel there is no basis for a claim either by the employee concerned or by anyone taken from the Civil Service Roster to serve on a Security Hearing Board that such a Board is not properly constituted solely on the ground that the subject of the case has not been suspended by me.

Sincerely,

SIGNED

Allen W. Dulles
Director

OGC:TMF:LRH:imm

Rewritten by AWD:meo (12 Oct. '53)

cc: DCI (2)

Director of Security

OGC (2)

A-DD/A

Issued as requested